

CHAPTER NO. 207

HOUSE BILL NO. 2250

By Representatives McMillan, McDaniel, Newton, Hargrove

Substituted for: Senate Bill No. 2116

By Senators Crutchfield, Cohen

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 17, Part 1, relative to charitable gaming.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-17-103(a)(1)(B), is amended by deleting the language "Prior to November" and by substituting the language "Except as provided in subdivision (D), prior to November".

SECTION 2. Tennessee Code Annotated, Section 3-17-103(a)(1), is amended by adding the following language as a new subdivision:

(D) Notwithstanding any provision of this chapter to the contrary, a 501(c)(3) organization seeking to operate an annual event for the annual event period beginning July 1, 2005 and ending June 30, 2006, shall submit an annual event application to the secretary by twelve o'clock (12:00) noon central daylight time (CDT) on May 25, 2005.

SECTION 3. Tennessee Code Annotated, Section 3-17-103(a)(1), is amended by deleting the following language:

Annual event applications shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

and by substituting instead the following language:

For purposes of the submission deadline, the postmark date on the annual event application shall be considered the date of submission.

SECTION 4. Tennessee Code Annotated, Section 3-17-103, is amended by adding the following language as a new subsection:

(f)

(1) Notwithstanding any provision of this chapter to the contrary, a §501(c)(3) organization seeking to operate an annual event for the benefit of such organization located in this state which does not intend to raise gross revenue from such annual event exceeding five thousand dollars (\$5,000) shall submit an annual event application to the secretary:

(A) By twelve o'clock (12:00) noon central daylight time (CDT) on May 25, 2005, for the annual event period beginning July 1, 2005, and ending June 30, 2006; and

(B) Prior to November 1 in subsequent years for subsequent annual event periods.

(2) For purposes of the submission deadline provided in subdivision (1)(A), an annual event application shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(3) For purposes of the submission deadline provided in subdivision (1)(B), the postmark date on the annual event application shall be considered the date of filing.

SECTION 5. Tennessee Code Annotated, Section 3-17-103, is amended by deleting subsection (a)(5)(B)(iii) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 3-17-103(d), is amended by adding the following language to the end of subdivision (3):

Notwithstanding any provision of this chapter to the contrary, the secretary shall establish rules and regulations concerning modification of the actual dollar amount at which a ticket, share, chance or other similar record shall be sold by a 501(c)(3) organization authorized to conduct an annual event; provided that only one (1) such modification shall be made prior to the sale of any ticket, share, chance or other similar record and only in an amount within fifty dollars (\$50.00) of the actual dollar amount disclosed pursuant to §3-17-104(a)(14)(B).

SECTION 7. Tennessee Code Annotated, Section 3-17-103(b), is amended by adding the following language as a new subdivision:

(3) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house by March 1, 2005, the secretary shall transfer an additional omnibus list listing any organizations approved pursuant to §§3-17-103(a)(1)(D) and 3-17-103(f) for the annual event period beginning July 1, 2005, and ending June 30, 2006. The list shall be transferred in a manner consistent with § 3-17-103(b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) on May 26, 2005.

SECTION 8. Tennessee Code Annotated, Section 3-17-103(e), is amended by deleting subdivision (2) in its entirety and by substituting instead the following language:

(2) For purposes of this chapter, the postmark date on the financial accounting shall be considered the date of submission.

SECTION 9. Tennessee Code Annotated, Section 3-17-104(a), is amended by deleting the language "For the annual event period beginning July 1, 2005," and by substituting instead the language "Except as provided in § 3-17-103, for the annual event period beginning July 1, 2005,".

SECTION 10. Tennessee Code Annotated, Section 3-17-104(a), is amended by deleting subdivision (12) in its entirety and by substituting instead the following language:

(12) A copy of the minutes from the meeting of the §501(c)(3) organization, signed and attested by the board secretary, indicating the intent to operate an annual event if authorized by the general assembly; provided that:

(A) If a § 501(c)(3) organization's by-laws authorize an executive committee to act on behalf of the full board, such minutes shall reflect an affirmative vote by a majority of the executive committee of the board of directors or trustees of the organization to operate such annual event. In lieu of a copy of the minutes, an organization may submit an affidavit signed by all members of the executive committee of the board of directors or trustees of the organization indicating the intent to operate an annual event if authorized by the general assembly; and

(B) If a § 501(c)(3) organization's by-laws do not authorize such action by an executive committee, such minutes shall reflect an affirmative vote by a majority of the full board to operate such annual event. In lieu of a copy of the minutes, an affidavit signed by all members of the board of directors indicating the intent to operate an annual event, if authorized by the general assembly.

SECTION 11. Tennessee Code Annotated, Section 3-17-104(a), is amended by deleting subdivision (16) in its entirety and by substituting instead the language:

(16) The location, or locations, of the annual event including the physical site in each county identified by an address or unique descriptive feature at which the annual event will be operated in accordance with §3-17-103(a)(3)(B)(i);

SECTION 12. Tennessee Code Annotated, Section 3-17-104(c), is amended by adding the following language as a new subdivision:

(4) No additional application fee shall be required from any organization that previously submitted an annual event application for the same organization, which was subsequently rejected, during the application period ending November 1, 2004. This subdivision only applies to applications submitted pursuant to § 3-17-103(a)(1)(D) or § 3-17-103(f)(1)(A).

SECTION 13. Tennessee Code Annotated, Section 3-17-104, is amended by adding the following language as a new subsection:

(e)

(1) Notwithstanding any other provision of this section to the contrary, a §501(c)(3) organization filing an annual event application pursuant to §3-17-103(f) shall submit, on a form prescribed by the secretary, the following information:

- (A) The name and mailing address of the §501(c)(3) organization;
- (B) The name of the event;
- (C) The date of the event;
- (D) The location of the event;
- (E) A description of the type of lottery game to be conducted;
- (F) A description of the charitable use of the proceeds from the event;
- (G) The name and telephone number of a contact person for the event;
- (H) A copy of the organization's determination letter from the Internal Revenue Service showing that the organization is exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code;
- (I) A sworn statement that the organization has been in continuous and active existence as a § 501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application; and
- (J) A sworn statement that the organization does not intend to gross in excess of five thousand dollars (\$5,000) from the event, if authorized by the general assembly.

(2) All provisions of this chapter not inconsistent with this subsection shall apply to a § 501(c)(3) organization submitting an application pursuant to §3-17-103(f).

SECTION 14. Tennessee Code Annotated, Section 3-17-104(c), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) The secretary shall collect a reasonable fee for annual event applications. No fee shall exceed seven hundred dollars (\$700). The secretary may establish a fee structure providing a reduced fee for organizations submitting annual event applications pursuant to §§ 3-17-103(f) and 3-17-104(e); provided that for the annual event period beginning July 1, 2005 and ending June 30, 2006, such reduced fee shall be one hundred fifty dollars (\$150). Fees collected under the provisions of this chapter shall be used by the secretary and the Tennessee bureau of investigation to defray the cost of administering this chapter including, but not limited to, the cost of investigations pursuant to § 3-17-113.

SECTION 15. Tennessee Code Annotated, Section 3-17-105(d)(2)(A), is amended by deleting the language "pursuant to §3-17-103(a)(1)" and by substituting instead the language "pursuant to §3-17-103(a)(1) or (f)".

SECTION 16. Tennessee Code Annotated, Section 3-17-106, is amended by adding the following language as a new subsection:

(g)

(1) Notwithstanding any other provision of this section to the contrary, for authorized annual events conducted pursuant to applications filed under the provisions of §§ 3-17-103(f) and 3-17-104(e), the organization shall file a financial accounting, on a form prescribed by the secretary, including the following:

- (A) The gross amount of money received from the annual event;
- (B) The amount expended for prizes and administrative costs; and
- (C) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the §501(c)(3) organization.

(2)

(A) If the secretary determines that the gross revenue reported in §3-17-106(g)(1) exceeds five thousand (\$5,000) dollars, the §501(c)(3) organization shall remit to the secretary the full application fee as required pursuant to §3-17-104(c)(2), less the reduced fee remitted with the annual event application. Any payment to be remitted pursuant to this subsection shall be submitted with the financial accounting report.

(B) An organization required to remit an additional payment pursuant to subdivision (g)(2)(A) shall, in the next annual event application period, pay the full application fee as required pursuant to §3-17-104(c)(2).

SECTION 17. Tennessee Code Annotated, Section 3-17-110(c), is amended by adding the following language as a new subdivision:

(3) Notwithstanding subdivisions (1) and (2) of this subsection, for annual events conducted pursuant to applications filed under the provisions of §§ 3-17-103(f) and 3-17-104(e), the total value of all prizes awarded per annual event shall not exceed twenty-five thousand dollars (\$25,000).

SECTION 18. Tennessee Code Annotated, Section 3-17-113, is amended by deleting subsection (c) in its entirety and by substituting instead the following language:

(c) The provisions of subsection (a) shall apply to applications and annual events to be conducted on and after July 1, 2005.

SECTION 19. Tennessee Code Annotated, Section 3-17-109(b), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) Any person providing printing services, telephone services and any records, devices or other gaming related supplies to conduct such specific authorized annual event;

SECTION 20. Tennessee Code Annotated, Section 3-17-109, is amended by adding the following language as a new, appropriately designated subsection:

() No ticket, share, chance or similar record for any specific authorized annual event shall be purchased by, and no prize or award shall be paid to, any individual providing prizes or any member of the immediate family of any individual providing prizes residing as a member of the same household in the principal place of residence of such individual.

SECTION 21. Tennessee Code Annotated, Section 3-17-110, is amended by adding the following language as a new subsection (d):

(d) Authorized §501(c)(3) organizations offering a prize of real property pursuant to the provisions of subsection (c) may offer a cash equivalent prize not to exceed the fair market value of the real property; provided that any such cash equivalent prize shall be disclosed in the rules of the specific annual event prior to the sale of any ticket, share, chance or other similar record for such annual event and, if a cash equivalent prize is awarded, shall comply with the provisions of subsection (b).

SECTION 22. A §501(c)(3) organization authorized to conduct an annual event during the 2004 - 2005 annual event period may change the location of the annual event if the location listed on the annual event application is subsequently unavailable due to destruction, inaccessibility, closure or general unsafe conditions of such location during the time in which the annual event was to be conducted and if the following conditions are satisfied:

(1) Written notice is given to the secretary, Tennessee bureau of investigation, district attorney for the judicial district in which the annual event is to be conducted and each chief law enforcement officer of the county or municipality in which the annual event is to be conducted stating that the listed location is unavailable, the reason for unavailability, and the new location; and

(2) Sufficient public notice is given by means of posting notice on the organization's website or by publication in a newspaper of general circulation in the county in which the annual event will be conducted.

SECTION 23. Section 3 of this act shall take effect July 1, 2005, the public welfare requiring it. All other provisions of this act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 19, 2005



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 24th day of May 2005



PHIL BREDESEN, GOVERNOR